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Chairman: Mrs. FLORES (Uruguay)

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 141: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER (A/48/268)

1. Mr. DEREYMAEKER (Belgium), speaking on behalf of the European Union, said that the States members of the European Union had on previous occasions already expressed their conviction that the needs of developing countries could best be met through gradual progress in the area of international economic cooperation.

2. That position remained valid, because over the past few years a sound foundation had been laid, within the framework of the United Nations, for a more pragmatic approach to international economic cooperation. One example of such progress was the United Nations Conference on Environment and Development, held in Rio de Janeiro in June 1992, at which the Rio Declaration and Agenda 21 had been adopted.

3. The European Union, which had actively collaborated in the Conference, was fully aware of the needs and problems faced by the developing countries, and intended to play a major role in the process that had been initiated for addressing those problems.

4. The position of the European Union countries on the item under consideration was well known, as it had been set forth in a number of previous reports, including document A/41/536 on the analytical study prepared by the United Nations Institute for Training and Research (UNITAR) (A/39/504/Add.1, annex III). The States members of the European Union had repeatedly indicated their preference for a flexible approach towards the complex problems raised by the agenda item. General Assembly resolution 46/52, however, did not fully acknowledge that there was now a new climate in international economic relations, as evidenced by the fact that more and more countries were applying market-economy principles. As a result, the States members of the Union had not been able to support the resolution two years earlier, and they could not support a corresponding text.

5. With regard to the question of the progressive development of the principles and norms of international law relating to the new international economic order, he said that the progress made in the area of international economic cooperation had been possible thanks to a number of very diverse instruments. Some of those instruments were legally binding, while others were intended only to be hortative. That diversity should be maintained, in order to allow for sufficiently flexible approaches to be adopted. The best way to deal with the problems in question was to draw up different types of instruments on specific issues, as the need arose.

6. As they had already stated on many occasion, the States members of the European Union did not feel that the time had yet come to undertake the task of codifying the law relating to the new international economic order. Codification would require a measure of agreement as to which legal norms and principles would be admissible, and such agreement did not yet exist within the international community. In 1991, many delegations, including the States members of the European Union, had voted against paragraph 3 of General Assembly

(Mr. Dereymaeker, Belgium)

resolution 46/52, which provided for the establishment of a working group to develop the principles and norms of international law relating to the new international economic order. The outcome of the vote in the Sixth Committee (74 in favour, 34 against and 2 abstentions) had shown that there was a lack of support for the establishment of the working group and for its mandate. The European Union was reaffirming its position, because international economic cooperation was a constantly evolving process, and it was important to avoid any initiative that might paralyse that process artificially. The countries of the European Union wished to stress the need to pursue the pragmatic dialogue, initiated within the framework of the United Nations, the results of which were clearly encouraging. With that in mind, the European Union reiterated its request that the item should be dropped from the agenda of the Sixth Committee.

7. Mr. BISSEMBER (Guyana) said that some delegations apparently had doubts as to the validity and appropriateness of the item that was now before the Committee. However, the essential purpose of the new international economic order - as an initiative of the developing countries - was to correct the imbalances in the international economic system. The imbalances persisted; they had not disappeared. The pay-out of the so-called peace dividend, the freeing of financial resources for development - had failed to materialize. To the extent that the reduction of East-West tensions had not produced any significant change in the economic relations between developed and developing countries, on the one hand, and debtor and creditor nations or institutions, on the other, the issue of a new international economic order continued to be relevant.

8. The international legal community had already acknowledged, by the title given to the agenda item, the creative approach which was required to address the issue. By placing the subject within the context of progressive development of law, as opposed to codification, it had recognized that there was a need for a new framework to be constructed to achieve not only a redistribution of economic and financial resources, but also the creation of conditions for sustained development in both the economic and the social sectors of developing countries. Hence, the aim was to develop norms to be applied rationally in order to address priorities which, for one reason or another, had been overlooked in the past.

9. Because what was being asked of the international community was a creative, innovative approach to international law reform, there might be an instinctive inclination in some quarters to recoil from the exercise. If that was the case, he would ask members to consider the historical determinants that had brought about the prevailing imbalance between the developed and the developing countries, namely, colonialism, unfavourable terms of trade, exploitation of countries that produced raw materials, curtailment of access to development financing, protectionism and the discriminatory manipulation of market practices and preferences, especially in end-user countries. The place of equity had been well developed in the common law legal tradition, and, by the same token, the principle of equity should be invoked in the conduct of international economic relations.

10. The medium through which that principle should be invoked was the progressive development of international law, in other words, the development of new norms for addressing inter alia the relationship between debt and

(Mr. Bissember, Guyana)

development, equitable access to financial resources, and the transfer of technology and technical know-how. The creditor nations and multilateral financial institutions, for their part, should accept the idea of debt write-offs and debt forgiveness through an international legal regime. The task would not be an easy one. The attitudinal shift required was enormous, and could only be accomplished through dialogue. Moreover, the purpose of agenda item 141 was to go beyond the desired attitudinal shift and to set down in a structured manner a framework representative of the desired change. To the extent that the contradictions inherent in the dilemma of debt versus development could be accommodated in a new international economic order, the goal was justifiable. If the appropriate medium for achieving that objective was the progressive development of international law, the international community must live up to the expectations of the developing countries.

11. Mrs. VALDÉS (Cuba) said that, since the adoption by the General Assembly of resolutions 3201 (S-VI) and 3202 (S-VI), containing the Declaration and Programme of Action on the Establishment of a New International Economic Order, Cuba had collaborated with other third world countries in the search for widely acceptable formulas. Her delegation felt that efforts must be continued towards the development of a fairer international economic order in which the needs of the international community as a whole would be taken into account. In that endeavour, the primary factors to be borne in mind were the lack of resources of the developing countries and the urgent need for international cooperation for development.

12. The end of the cold war between East and West had brought about a change in international relations. Nevertheless, far from seeing any improvement, the rest of the States Members of the United Nations, particularly the developing countries, had instead found that their economies were deteriorating more and more. Her delegation therefore welcomed the establishment of the working group envisaged in General Assembly resolution 46/52. The working group's activities should be based mainly on the resolutions 3201 (S-VI) and 3202 (S-VI) and on the Charter of Economic Rights and Duties of States.

13. A review should be begun immediately of all principles and norms not consistent with current circumstances, which should be replaced by new ones suited to the current international situation, in which the economies of the developing countries were suffering serious deterioration. Moreover, measures should be adopted for the implementation of those principles and norms, as well as for the establishment of suitable supervision and monitoring mechanisms for enforcing them. In that regard, the analytical study prepared by UNITAR (A/39/504/Add.1, annex III) should prove useful and should be the starting-point for the working group's activities.

14. The comments submitted by Governments and international organizations contained suggestions which might also serve as a basis for the working group. Her delegation particularly supported those suggestions which concerned four fundamental issues: the principle of solidarity; the principle relating to the duty to cooperate; the right to development; and the feasibility of attaining a new international economic order, bearing in mind such specific matters as the deteriorating economic conditions in developing countries, the debt problem and the commodity issue.

(Mrs. Valdés, Cuba)

15. There was no avoiding the relationship between peace and development. It was impossible to guarantee peace in a world in which the majority of peoples were living in extreme poverty and even going hungry, since such situations were conducive to the outbreak of social conflicts with unpredictable consequences.

16. The working group should also take into consideration the Rio Declaration and Agenda 21, which contained important reflections on sustainable development and international cooperation for the future. Lastly, any work undertaken with the intention of establishing the new international economic order should take as its starting-point the reaffirmation of the principle of sovereignty, including the right of every State to choose freely its own economic and social development model.

17. Mr. DUTTA (India) said that the topic of a new international economic order which had been the subject of discussion, research and studies in various international forums, had a praiseworthy objective: correcting the current iniquitous economic order and thus reducing international tensions and conflicts. The basis for consideration of the issue was to be found in the Charter of the United Nations itself, particularly in Article 1, paragraph 3, and in the provisions contained in Chapter IX, entitled "International economic and social cooperation".

18. A glance at the current situation revealed continuing and serious problems. The economies of the developing countries were in particularly poor shape, even more so since 1980. In most developing countries the growth rate had been sharply declining. On top of that, there were falling commodity prices, the increasing application of tariff and invisible barriers, the rise in the burden of debt servicing and the decrease in the flow of concessional finance for development. The indebted countries had been unable to address their real problems, such as mass poverty, because they had to divert resources to debt servicing, which caused instability and uncertainty in their financial, monetary and trading systems. The developing countries had undertaken strenuous adjustment efforts to cope with the crisis, but the economic and social costs of adjustment were unacceptably high. It was therefore necessary to appeal to the understanding of the international community, and demand of it a constructive response, which would include the adoption of consistent, convergent and mutually reinforcing policies in the interrelated areas of money, finance, debt and trade. In that regard, mention should be made of the various specific proposals of developing countries designed to revitalize international economic relations.

19. The development of the norms and principles of international law to underpin moves to set economic relations on a more equitable basis assumed great importance in that context, especially for the developing countries, which would find in that legislative basis particular support for the specific proposals designed to resolve their problems. The Sixth Committee was more immediately concerned with the analytical study and the other documents submitted to the General Assembly by UNITAR, which were valuable contributions to consideration of the subject. The work of the United Nations Commission on International Trade Law and the Asian-African Legal Consultative Committee on economic cooperation between developed and developing countries should also be taken into consideration. In that regard, his delegation believed that any attempt to deny

(Mr. Dutta, India)

the right to development its proper place in international law would only lead to the weakening of the entire United Nations system.

20. The development of the principles and norms of international law relating to the establishment of the international economic order should focus on areas of inequality in international law which thwarted the free development and exercise of business and industrial enterprise in developing countries, causing stagnation. Furthermore, attention should be paid to the practices of the international financial institutions, which were part of the system meant to assist the underdeveloped countries in their development but which had so far not elaborated norms which actually enhanced the competitiveness of those countries and would be acceptable to them. That also applied, mutatis mutandis, to bilateral assistance by developed countries. The regime to be established should facilitate the transfer of technology and technical expertise so as to ensure rapid economic and social growth in developing countries and improve the institutional mechanics of the application of international law to relations among States.

21. Mr. PERALTA (Costa Rica) said that despite the end of the cold war the economic differences between North and South had become more acute. The third world was trapped in an economic system which allowed it no room to develop. At the beginning of the next century there would be 6 billion people in the world, two thirds of them in developing countries. Those countries were demanding a more equitable new international economic order based on principles and norms which would make it possible to eliminate poverty, guarantee the principles of peace, development and cooperation, and consolidate the basis of democracy.

22. As the Minister for Foreign Affairs of Costa Rica had indicated when addressing the General Assembly, the developing countries were not asking for hand-outs - what they needed was greater understanding, greater openness for their products and effective support for their desire to live in peace and democracy. The world could not prosper if some States languished in oblivion. All countries should face the current crisis together, which would benefit both developing and developed countries because it would promote greater political and economic stability, a better distribution of resources and an increase in exports and jobs.

23. A legal system which guaranteed equal opportunity for and the sovereignty of peoples should be established, and the Sixth Committee was the appropriate forum to develop new mechanisms to safeguard those principles. The working group set up to develop new principles and norms of international law relating to the new order should bear in mind that to achieve that goal it was necessary to bring about arms reductions, strengthen democratic institutions, eliminate discrimination, safeguard the right to self-determination, protect the environment and, above all, eradicate poverty. The working group should also take into consideration the need to make changes in the financial and monetary system and to set common priorities, promote investment and individual initiative, and eliminate restrictive trade practices. That did not mean running a command economy or obliging any State to ignore the laws of supply and demand, since international law could not contradict economic laws. Nevertheless, States could set up an effective legal framework to ensure compliance with international trade law.

24. Mr. BLOOM (United States of America) said that his Government continued to believe that the time was not ripe for the development of principles and norms relating to the new international economic order. It associated itself with the comments made by the Belgian delegation on behalf of the European Union in that connection. The United States supported global development and the legitimate aspirations of developing countries. Nevertheless, today economic development issues were handled not in terms of the politically-charged vocabulary of a new order but through concrete bilateral and multilateral efforts to promote economic development and trade. An example of such cooperation was the increasing negotiation and implementation of bilateral investment treaties.

25. The United States must again state that it did not support the development of principles and norms in that connection, since there was simply insufficient agreement on the substance of the topic. The debate under way was anachronistic and hindered rather than promoted the development of norms of international law. The problems of developing countries required innovative solutions, and the international community should focus on looking for such solutions instead of returning to the rhetoric of the past.

The meeting rose at 11.15 a.m.